



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/020,122	02/06/1998	FREDERIC J KIRKLIN	980106	2906
40158	7590	05/23/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			PATEL, JAGDISH	
		ART UNIT	PAPER NUMBER	3624

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/020,122	KIRKLIN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	JAGDISH PATEL	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 December 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15, 26-39 and 54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15, 26-39 and 54 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 June 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This communication is in response to amendment filed 06/12/02.

***Response to Amendment***

2. Claims 1-15, 26-39 and 54 are currently pending.
3. The indicated allowability of claims 1-15, 26-39 and 54 is withdrawn in view of the newly found reference(s). Rejection(s) based on the newly cited reference(s) follow.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 13-15 and 54 are rejected under 35 USC 102(e) as being anticipated by Walsh et al. (US Pat. 6,144,848) (Walsh).

As per Claim 13, Walsh teaches a portable station for interactive transfer of inventory information with a remotely

Art Unit: 3624

located base station having a first transceiver means said portable station comprising:

a second transceiver means for wirelessly transmitting signals to and receiving signals from the first transceiver means of a base station,

scanning means for scanning bar code indicia on a product and

producing digital data signals based upon the bar code indicia scanned,

a sound receiving means for receiving sounds and converting said sounds into electronic sound signals,

a sound generating means for generating audible sounds from electronic sound signals, and

a portable interface device comprising:

a first interface means for interfacing to the second transceiver means;

a second interface means for interfacing to the sound receiving means and the sound generating means;

a third interface means for interfacing to the scanning means; and

a translating means for converting digital data signals received from the scanning means interfaced to said third interface means, said translating means being adapted to convert said digital data signals into DTMF-encoded transfer signals and transmitting said transfer signals to the first interface means for being wirelessly transferred to the first transceiver means of the base station by said second transceiver means, said translating means converting DTMF-encoded transfer signals received by wireless transmission from said first transceiver means to said second transceiver means and passed to said first interface means, said translating means being adapted to convert said DTMF encoded transfer signals into digital data signals for transfer to said scanning means.

(refer to Figures 1A, 4 and 5 which show all elements of the claims. Refer to appropriate text in section titled "Detailed Description and the Preferred Embodiments" for relevant description)

14. The portable station of claim 13 additionally comprising a detection means connected to the first interface means for detecting DTMF-encoded signals received by the first interface means from said second transceiver means

(Fig. 1A transceiver 123).

15. The portable station of claim 13 additionally comprising an interrupting means connected to said first interface means.. (see 1A, Amplifier and Mixer 140)

54. A method of merchandise ordering and order fulfillment, said method comprising:

providing an order processing system comprising a central station interfaced to a telephone communication network so as be accessible to customers by telephone for creation of a merchandise order; (see 1A Host sever 110)and

assembling a customer order for fulfillment, including the steps of: requesting from a customer a product identification of a product item and a quantity of the product item to be added to the merchandise order;

(col. 12 L 14-38, command messages, col. 32 L 57-67, order processing element 111, col. 33 L 48- col. 34 L 4, refer to order processing)

receiving a requested product identification and a requested product quantity from a customer;

(col. 12 L 14-38, command messages, col. 32 L 57-67, order processing element 111, col. 33 L 48- col. 34 L 4, refer to order processing)

confirming the identity and quantity of the product item to be included in the merchandise order;

and

comparing the requested product quantity of a product item in a merchandise order to a predetermined limit quantity established for said product item and, if the requested

quantity exceeds said predetermined limit quantity, reciting the requested product quantity of the product item to the customer and requesting confirmation from the customer of the requested product quantity of the product item.

(col 35 L 40-45, col. 37 L 22-45, refer to steps shown in Fig. 14).

(please also refer to for further details col. 32 L 55+, order processing , transmit data ..host server 110, col. 33 L 48+, product information and product availability..., col. 34 L 35+ DTMF tonal code...)

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 26-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh further in view of Cerny Jr. (US Pat. 5,395,206).

Per claim 1, Walsh teaches a system for interactive transfer of inventory information in a product storage space, said system comprising:

a base station and a portable station; a first transceiver means in said base station and a second transceiver means in said portable station for wirelessly transmitting signals therebetween, said wireless signal transmission between said first and second transceiver means including DTMF-encoded data signals and DTMF-encoded command signals and spoken command signals;

said base station comprising

voice recognition means for identifying spoken command signals received from said portable station and converting said spoken command signals into predetermined computer

Art Unit: 3624

command codes corresponding to the spoken command signals, wherein said voice recognition means transfers said predetermined computer command codes to said directing station;

voice generation means for converting predetermined computer command codes received from said directing means into corresponding electronic sound signals for producing sounds corresponding to spoken commands, wherein said voice generation means transfers said electronic sound signals to said portable station;

a first translating means for translating DTMF-encoded transfer signals from said portable station into predetermined computer command codes, wherein said first translating means transfers said predetermined computer command codes to said directing station;

a computer command code database accessible by said first translating means and said voice generation means for providing predetermined computer command codes; and said portable station being adapted for use remotely from said base station, said portable station being movable about a product storage space, said portable station comprising:

scanning means for scanning bar code indicia on a product, said scanning means being adapted to produce digital data signals based upon the bar code indicia scanned;

a second translating means for converting digital data signals from said scanning means into D'I'MF-encoded transfer signals for transmitting to the first translating means of said base station;

a sound receiving means for receiving sounds and converting said sounds into electronic sound signals; and

a sound generating means for generating audible sounds from electronic sound signals.

(refer to Figures 1A, 4 and 5 which show all elements of the base station and the portable station. Refer to appropriate text in section titled "Detailed Description and the Preferred Embodiments" for relevant description)

Cerny discloses a directing station comprising

Art Unit: 3624

database means for storing product-related information and customer-related information, said database means including order fulfillment information and product location information;

directing means for determining an order fulfillment path through said product storage space based upon order fulfillment information and product location information stored in said database means for a product storage space, said order fulfillment path including a sequence of person movement instructions for directing person movements between product storage locations in said product storage space for permitting an efficient assembly of products to fulfill a customer order, said directing means passing said person movement instructions to the first transceiver means for transmission to said second transceiver means of said portable station;

a processing means for facilitating transfer of data between said first transceiver means, said database means, and said directing means.

(see at least col. 1 L 66- col. 2 L 15, col. 4 L 63- col. 5 L 14, col. 5 L 50-68, col. 6 L 44-54, col. 7 L 45-50, col. 8 L 66- col. 9 L 4 and col. 10 L 32-38).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Walsh and Cerny because the resulting system would automatically provide efficient and accurate fulfillment the customer order in the storage area.

Regarding Claims 2-12 all claimed elements are explicitly or inherently incorporated in the combined references of Walsh and Cerny as analyzed above.

Claims 26-39 recite method steps or functions carried out by the means recited in the system claims 1-12 and 13-15.

Art Unit: 3624

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Radcliffe (US 5,505,473) teaches a cart for carrying units and communicating with a computer by means of broadcast and particularly relates to a mobile cart for carrying different units and for communicating with the computer by radio frequency the location and quantity of the units to be carried by the cart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on 800AM-600PM M-Th. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571)272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jagdish N. Patel  
(Primary Examiner, AU 3624)  
5/12/05